

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own
Motion To Consider the Costs and Benefits
of Various Promising Revisions to the
Regulatory and Market Structure Governing
California's Natural Gas Industry and to
Report to the California Legislature on the
Commission's Findings.

Investigation 99-07-003
(Filed July 8, 1999)

OPINION ON REQUESTS FOR INTERVENOR COMPENSATION

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OPINION ON REQUESTS FOR INTERVENOR COMPENSATION

Responding to unopposed compensation requests, this decision awards \$118,466.48 to The Utility Reform Network (TURN) and \$11,514.85 to Aglet Consumer Alliance (Aglet) for their contributions to Decision (D.) 01-12-018, in which the Commission adopted regulatory and market structure reforms for natural gas systems in Southern California.

1. Background

In Investigation (I.) 99-07-003, we adopted broad reforms for California's natural gas industry. We hoped to build on certain promising options for changes to the gas regulatory and market structure that had been identified in D.99-07-015, issued in Rulemaking (R.) 98-01-011. We also encouraged market participants to pursue comprehensive settlements, consistent with those options, for submission in I.99-07-003.¹

This investigation proceeded on two tracks, one for the Pacific Gas and Electric Company (PG&E) natural gas system, and one for the Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) systems. All issues regarding the PG&E system were resolved in two settlements which were approved in D.00-02-050 and D.00-05-049.²

Resolution of the issues proved more difficult for Southern California than for the PG&E system. Several settlements and proposals were filed at various times and some of them were withdrawn. In D.01-12-018, the Commission adopted one of the three remaining settlement proposals, with modifications.

¹ D.99-07-015, Ordering Paragraphs 1 and 2.

² In D.00-07-046, we awarded Aglet \$5,942.12 for its contribution to D.00-02-050. In D.01-03-030, we awarded Aglet \$15,910.16 for its contribution to D.00-05-049, and we awarded TURN \$17,246.02 for its contributions to both D.00-02-050 and D.00-05-049.

We recapitulate the complicated procedural history and provide brief descriptions of some of the differences among the various settlements that are particularly pertinent in assessing the compensation requests.

The first settlement regarding Southern California, called the Interim Settlement Agreement (Interim Settlement), was filed on December 27, 1999. The Interim Settlement would apply only to the SoCalGas system, not to the SDG&E system, and was supported by SoCalGas, SDG&E, and 20 other parties. The Interim Settlement addressed only some of the options identified in D.99-07-015, and would have maintained the status quo in other significant respects. Among other things, the Interim Settlement would establish intrastate transmission receipt point capacities based on physical maximums, institute Operational Flow Order (OFO) procedures, and create receipt point “pools” of transportation gas. It would maintain bundled intrastate transmission and system-wide balancing.

On January 28, 2000, three additional settlements and a proposal for consolidating settlements were filed. After further negotiations, the three January 28 settlements were withdrawn and a new settlement, the Post-Interim Settlement Agreement (Post-Interim Settlement), was filed on April 3, 2000 with the support of 11 customer parties including Aglet and TURN. SoCalGas and SDG&E were not parties to the Post-Interim Settlement.

The Post-Interim Settlement incorporated provisions approved in D.00-04-060 and the terms of the Interim Settlement, and added other provisions. (TURN and Aglet were not signatories to the Interim Settlement but subsequently expressed support for the Interim Settlement as part of the Post-Interim Settlement.) In addition to the terms of the Interim Settlement, the Post-Interim Settlement would unbundle interstate core transmission capacity, with

core interstate transition cost surcharge (ITCS) recovery allocated 50/50 between core transport and core sales, and would eliminate the core's contribution to the noncore ITCS. The Post-Interim Settlement would explicitly prohibit intrastate transmission unbundling until 2006, and would maintain system-wide balancing.

On February 17, 2000, SoCalGas and SDG&E filed advice letters 2895 and 1185-G, respectively. These advice letters sought to establish Gas Industry Restructuring Memorandum Accounts (GIRMAs) to begin to book restructuring costs for possible later recovery after review by the Commission. Following protests by several parties, including TURN and Aglet, the Commission deferred action on the two advice letters until D.01-12-018.

On April 17, 2000, SoCalGas, SDG&E, ORA, and approximately 25 other parties filed the Comprehensive Gas OII Settlement Agreement (Comprehensive Settlement). Aglet, TURN, and certain other parties opposed the Comprehensive Settlement. The Comprehensive Settlement proposed a comprehensive restructuring of the natural gas system in Southern California comparable to the changes already implemented for Northern California. Many of the initiatives of the Interim Settlement were included in the Comprehensive Settlement. Additionally, the Comprehensive Settlement would unbundle intrastate transmission with postage stamp rates for capacity sold by SoCalGas and establish a 40% market concentration limit, unbundle all storage and reduce the amount of storage reserved for the core and default balancing service, separate balancing for the core and noncore classes, require SoCalGas to file an application to address competitive core procurement alternatives, reduce the minimum size requirement and eliminate the market share cap for the Core Aggregation Transportation (CAT) procurement program, unbundle interstate core transmission and phase recovery of all core ITCS to the core class, eliminate the core subscription service currently offered to noncore customers, create both

receipt point and citygate pools for transmission, and eliminate the core's contribution to the noncore ITCS.

These three settlements were considered during eight days of evidentiary hearing between May 30 and June 8, 2000. After a petition from SoCalGas, the record was reopened on October 6, 2000 for the submission of amendments to the Comprehensive Settlement necessitated by the refusal of a company, which was named specifically in the Comprehensive Settlement, to enter into a contract to provide the third-party trading platform.

The proposed decision of Commissioner Richard Bilas was served on November 21, 2000. It recommended approval of the Interim Settlement with certain modifications, including the unbundling of core interstate transmission, elimination of the core's contribution to noncore ITCS, elimination of the core subscription service currently offered to noncore customers, and a reduction in the minimum size requirement and elimination of the market share cap for core aggregation programs. The proposed decision also would have offered certain billing options to core aggregators.

A full panel hearing was held on May 22, 2001. On October 11, 2001, the revised proposed decision of Commissioner Bilas was served. It adopted the Comprehensive Settlement with modifications which, among other things, would reduce the 40% market concentration limit for intrastate transmission capacity and set a maximum price on the open market; retain the current core storage capacity reservations and allow Core Transport Agents (CTAs) to reject only their reservation of non-reliability storage; cap the amount of core ITCS borne by bundled core customers; and relieve SoCalGas of certain customer-account management, data access, and billing system requirements in the Comprehensive Settlement.

On November 26, 2001, Commissioner Carl Wood issued an alternate which was similar to the proposed decision but would not unbundle core interstate transmission, reduce the minimum size requirement or eliminate the market share cap for core aggregation, unbundle any portion of core storage, or adopt the billing options in the proposed decision. Additionally, it would establish certain consumer protections not contained in the proposed decision.

The Commission issued D.01-02-018 on December 17, 2001, adopting the Comprehensive Settlement with modifications. D.01-02-018 is very similar to the revised proposed decision, with certain clarifications.

The proposed decision, the revised proposed decision, and the alternate would all have rejected the advice letters filed by SoCalGas and SDG&E to establish GIRMAs in early 2000, although their reasons varied. D.01-12-018 also rejected the advice letters.

2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Pub. Util. Code §§ 1801-1812. (Unless otherwise noted, all statutory citations are to the Pub. Util. Code.) Section 1803 provides for the award of fees to customers who make a substantial contribution and whose participation without compensation would impose a significant financial hardship. To be eligible for compensation, an intervenor must be a customer as defined by § 1802(b).³ Section 1802(h) states that “substantial contribution” means that,

“in the judgment of the commission, the customer’s presentation has substantially assisted the commission in the making of its order or

³ In D.98-04-059 (footnote 14), we affirmed our previous interpretation that compensation should be proffered only to customers whose participation arises directly from their interests as customers. (See D.88-12-034, D.92-04-051, and D.96-09-040.)

decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."

Section 1804(a) requires an intervenor to file a notice of intent (NOI) to claim compensation within 30 days after the prehearing conference or by a date established by the Commission. The NOI must present information regarding the nature and extent of the customer's planned participation and an itemized estimate of the compensation the customer expects to request. The NOI may request a finding of eligibility based on a showing that the intervenor's participation would pose a significant financial hardship. Alternatively, a showing of financial hardship may be included in the request for compensation. Pursuant to § 1804(b)(1), a finding of significant financial hardship in one Commission proceeding creates a rebuttable presumption of eligibility for compensation in other proceedings commencing within one year of the date of the finding.

Section 1804(c) requires an eligible customer to file a request for an award of compensation within 60 days of issuance of a final order or decision by the Commission in the proceeding and to provide "a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding." Section 1804(e) requires the Commission to determine whether the customer has made a substantial contribution and what amount of compensation to award. Section 1806 requires the Commission, in determining the amount of compensation, to take into account the market rate

paid to people with comparable training and experience who offer similar services.

3. NOI to Claim Compensation and Showing of Significant Financial Hardship

For eligibility to seek compensation, an intervenor must show undue financial hardship and customer status. On September 29, 1999, Aglet timely filed its NOI after the first prehearing conference, and on October 1, 1999, TURN timely filed its NOI. Aglet and TURN were found to be eligible for compensation in this proceeding by separate administrative law judge (ALJ) rulings dated October 29, 1999. The same rulings found that Aglet and TURN had demonstrated significant financial hardship.

4. Requests for an Award of Compensation

D.01-12-018 was mailed to the parties on December 17, 2001. TURN's and Aglet's compensation requests were timely filed on February 15, 2002 and February 13, 2002, respectively. On October 11, 2002, TURN modified its request slightly in response to an ALJ request for clarification. There was no filed opposition to either request.

5. Substantial Contribution to Resolution of Issues

A party may make a substantial contribution to a decision in one of several ways, as described in § 1802(h). It may offer a factual or legal contention upon which the Commission relied in making a decision, or it may advance a specific policy or procedural recommendation that the Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party's position in total. The Commission has provided compensation when it found that a party has made a

substantial contribution in certain unusual circumstances even though the position advanced by the intervenor was rejected in its entirety.⁴

5.1. TURN

TURN did not oppose the Interim Settlement, it actively supported the Post-Interim Settlement, and it opposed the Comprehensive Settlement. TURN chiefly argued against unbundling transmission capacity; thus, TURN supported the proposed decision but opposed the revised proposed decision of Commissioner Bilas, it supported the alternate of Commissioner Wood, and it opposed the Commission's decision.

TURN says that it made contributions to the "long and arduous" settlement process, to the proposed decision, and to the alternate. D.01-12-018 incorporated TURN's contentions and recommendations on several issues related to the settlements and to the SoCalGas advice letter proposing a GIRMA. Additionally, while opposing the Comprehensive Settlement, TURN suggests that its participation in the negotiations contributed to certain positive outcomes in the Comprehensive Settlement. TURN believes that it could be entitled to full compensation for all its expenses, but states that it voluntarily removes all its expenses for attorney time after issuance of the proposed decision in November 2000.

5.2. Aglet

Like TURN, Aglet supported the Post-Interim Settlement and opposed the Comprehensive Settlement. Aglet believes that it made a substantial contribution to D.01-12-018 with respect to the GIRMA advice letters, the

⁴ See D.89-03-063 (awarding San Luis Obispo Mothers For Peace and Rochelle Becker compensation in the Diablo Canyon Rate Case because their arguments, while ultimately unsuccessful, forced the utility to document thoroughly the safety issues involved).

Commission-approved modifications to the Comprehensive Settlement, and the development of a full record on contested issues. Aglet also asserts that compensation is warranted because it contributed to the proposed decision which recommended rejection of the Comprehensive Settlement.

5.3. Discussion

In D.99-07-015, we encouraged gas market participants to pursue comprehensive settlements of disputed issues in this investigation. Negotiations regarding the southern California gas market continued for almost a year. TURN reports that it was an active participant in all of the settlement negotiations. While Aglet signed the Post-Interim Settlement, time records indicate that Aglet focused most of its participation on post-settlement testimony, filings, and related activities. TURN's and Aglet's positions were presented through the coordinated direct and rebuttal testimony of TURN witness Michel P. Florio and Aglet witness James Weil (also coordinated with Southern California Generation Coalition (SCGC) witness Catherine E. Yap), and in subsequent briefs, reply briefs, oral arguments, and comments on proposed decisions.

As the Commission has noted previously, settlements complicate application of the substantial contribution standard since Rule 51.9 of the Commission's Rules of Practice and Procedure precludes disclosure of settlement discussions. In proceedings where settlements or other alternative dispute resolution procedures appear, the Commission uses its judgment and the discretion conferred by the Legislature to assess compensation requests. As we recognized in D.94-10-029 (mimeo. at 6-7):

“[t]he matter of compensation in an alternative dispute resolution context cannot rest solely on whether the party requesting compensation supported a settlement ultimately approved by the Commission. To condition the award of intervenor fees on the intervenor subscribing to a

settlement offered by a utility would put undue pressure on the intervenor to settle on terms it felt were not genuinely in the public interest.”

Consistent with that finding, we have awarded compensation to parties who participated in settlements when we find that party’s contribution to our order was substantial, whether or not the party requesting compensation supported an agreement adopted by the Commission.⁵ We have awarded compensation to customers who opposed a settlement that was adopted by the Commission, when that customer made a substantial contribution in other respects.⁶ Similarly, we have awarded compensation to customers who supported a settlement that was rejected.⁷

While TURN opposed the Comprehensive Settlement, TURN believes that its participation in the negotiations contributed to the fact that the Comprehensive Settlement was, “at least on its face, beneficial for core customers.” TURN recognizes that there are positive aspects of the Comprehensive Settlement, including the reservation of an advantageous amount of intrastate capacity at the Topock receipt point, the allocation of unbundled transmission costs, and termination of the noncore ITCS responsibility for core customers. TURN suggests that its participation in the overall negotiation process contributed to these positive outcomes.

We agree that TURN made a substantial contribution through its participation in the negotiations, particularly regarding the provision in the Comprehensive Settlement that eliminates the core contribution to the noncore

⁵ D.98-04-059, mimeo. at 43. See, also, D.95-08-024, D.95-07-035, D.89-03-063, and D.89-09-103.

⁶ See D.00-07-015, mimeo. at 5; D.96-06-047, mimeo. at 7-8; D.95-08-024; and D.94-10-044.

⁷ See D.96-05-064.

ITCS. We recognized in D.01-12-018 that, while the Commission previously had rejected proposals by TURN and the Office of Ratepayer Advocates (ORA) to eliminate the core contribution to noncore ITCS, this provision was incorporated in both the Post-Interim Settlement and the Comprehensive Settlement and appears to have been acceptable to parties as a compromise. While detailed information regarding settlement negotiations properly is not available, it is reasonable to conclude that inclusion of this provision in the Comprehensive Settlement arose, at least in part, because of TURN's representation of residential and small commercial customers during the negotiations.

In D.01-12-018, we adopted several modifications to the Comprehensive Settlement to address concerns raised by parties to the Interim Settlement and the Post-Interim Settlement. Some of the modifications are consistent with provisions in the Interim Settlement and the Post-Interim Settlement, including a restriction that CTAs may reject only their reservation of non-reliability storage and the requirement that current core storage reservation levels be maintained. We also modified the Comprehensive Settlement in several respects consistent with TURN's and Aglet's concerns raised during the evidentiary hearings, e.g., adoption of a 30% market concentration limit on purchases of transmission capacity, rejection of the Comprehensive Settlement's requirement that SoCalGas and SDG&E file applications addressing core procurement functions, rejection of a \$7.1 million investment to automate processes for switching customers to core aggregation programs, and adoption of a cap on the core ITCS to be borne by bundled core customers. Additionally, we relied on TURN's factual contentions regarding the historical noncore ITCS costs borne by core customers in our determination that noncore customers should pay a portion of the core ITCS. TURN and Aglet made substantial contributions

during negotiations (TURN) and through testimony and argument (TURN and Aglet) that assisted us in making these modifications.

Separate from consideration of the settlements, D.01-12-018 rejected SoCalGas' and SDG&E's GIRMA advice letters for reasons consistent with arguments raised by TURN, Aglet, and ORA (Joint Protestants). We agreed with Joint Protestants regarding various shortcomings of the utilities' proposals. We find that TURN and Aglet made a substantial contribution to the adopted outcome on this issue.

As TURN and Aglet point out, the proposed decision and the alternate were more consistent with TURN's and Aglet's positions than was D.01-12-018. The proposed decision and the alternate would have adopted versions of the Interim Settlement, which TURN and Aglet supported as part of the Post-Interim Settlement. Among other provisions, the proposed decision and the alternate both would have rejected intrastate transmission capacity unbundling, and both declined to separate core and noncore balancing. As active proponents of these outcomes, TURN and Aglet made substantial contributions to the proposed decision and the alternate. As we have found in evaluating other intervenor compensation requests,⁸ TURN's and Aglet's contributions to the proposed decision and the alternate reinforce our finding that they made a substantial contribution to D.01-12-018.

As a general matter, TURN and Aglet assisted in developing the record in this investigation, including those areas where we rejected their specific proposals. Our understanding of the breadth of issues was enhanced by TURN's and Aglet's participation. As we noted in D.96-10-072 (mimeo. at 7), "It is not

⁸ D.92-08-030, mimeo. at 4-5. See, also, D.94-07-031, mimeo. at 5; D.96-08-023, mimeo. at 5; D.96-09-024, mimeo. at 19; D.97-02-048, mimeo. at 6; D.98-02-092, mimeo. at 6; and D.98-11-020, mimeo. at 4.

necessary that the intervenor's suggestions be adopted, the key is that the intervenor's presentation substantially helped the Commission in the making of its order or decision."

6. The Reasonableness of Requested Compensation

6.1. Amount Requested

6.1.1. TURN

TURN requests compensation for all direct expenses and approximately 86% of its attorney time, for a total request of \$118,267.73. Tables 1 and 2 below summarize TURN's compensation requests for professional attorney time and direct expenses.

Table 1
TURN Professional Attorney Compensation Requested

Attorney	Billing Period	Hourly Rate	Hours Expended	Hours Claimed	Total Compensation
Marcel Hawiger	2002	\$190.00	26.25	0.00	\$0.00
	2001	\$190.00	25.50	0.00	\$0.00
	2000	\$185.00	346.80	327.40	\$60,569.00
	1999	\$170.00	44.37	44.37	\$7,542.90
Michel Florio	2001/2002	\$350.00	4.25	0.00	\$0.00
	2000/2001	\$350.00	10.50	8.25	\$2,887.50
	1999/2000	\$310.00	123.75	122.75	\$38,052.50
TOTAL			581.42	502.77	\$109,051.90

Table 2
TURN Direct Expenses

EXPENSE CATEGORY	AMOUNT
Travel	\$1,519.43
Copying	\$6,061.77
Postage	\$785.52
On-line Research	\$23.77
Delivery, FAX, Phone	\$825.34
TOTAL	\$9,215.83

TURN excludes all attorney time (approximately 70 hours) spent after issuance of the proposed decision in November 2000, including time spent on comments and reply comments to the proposed decision, the revised proposed decision, and the alternate, and all time spent on ex parte contacts and on the compensation request. TURN includes hours spent on work related to SoCalGas advice letters 2924 and 2925 (requesting a special deviation to Schedule G-CS), which it states were arguably related to retail issues in this proceeding but which it then voluntarily excludes. TURN charged all travel time at one half by reducing the hours charged by one half.

6.1.2. Aglet

Aglet requests an award of \$11,514.85, including the following elements:

Table 3
Aglet Compensation Requested

Professional Time (James Weil):

Billing Period	Hourly Rate	Hours Claimed	Total Compensation
1999	\$200	0.3	\$ 60.00
2000/01	\$220	36.9	\$8,118.00
Travel, comp. request	\$110	25.6	\$2,816.00

Direct Expenses:

Copies	155.04
Postage	98.32
FAX	38.00
Travel	<u>229.49</u>
TOTAL	\$ 11,514.85

Aglet does not seek compensation for one half of the time that its Director, James Weil, spent supporting the Post-Interim Settlement and opposing the Comprehensive Settlement. The disallowance totals 25.8 hours. Since the Commission recognized the contributions of Post-Interim Settlement supporters in D.01-12-028 approving the Comprehensive Settlement, Aglet states that this voluntary reduction fairly reflects Aglet's overall contribution to D.01-12-018.

6.2. Overall Benefits of Participation

To ensure that compensated participation provides value to ratepayers, we apply the standards for program administration that the Legislature identified in § 1801.3, including whether the intervenor's participation was productive, necessary, and needed for a fair determination of the proceeding. In D.98-04-059 (mimeo. at 34), we described three elements of the productivity requirement: the participation should be efficiently and

competently performed, it should be effective, and the costs of participation should bear a reasonable relationship to the benefits realized through such participation.

TURN and Aglet point to their cooperative efforts as an indication that their participation was efficient. For example, TURN and Aglet coordinated and shared workload with SCGC, their settlement partner, and divided up the work effort to prevent duplication, as evidenced by their joint direct and rebuttal testimony and joint pleadings. TURN did not incur any consulting costs due to Florio's participation as both expert witness and attorney in this case.

TURN and Aglet both represent residential and small business customers and presented very similar positions in these proceedings. While the overlap of positions and interests could create the possibility of duplication of effort, we do not find that such inefficiencies occurred. Aglet did not participate in the settlement negotiations, and generally only one TURN attorney attended the sessions. The submission of joint testimony and pleadings is another indication of efficient participation when customers have similar interests. The hours reported by TURN and Aglet appear reasonable in light of the complexity and length of this phase of the investigation.

The effectiveness of a customer's participation is established by a finding that a customer has made a substantial contribution to the Commission's decision due to its adoption, in whole or part, of one or more factual or legal contentions, or recommendations presented by the customer. Our findings regarding TURN's and Aglet's substantial contributions to D.01-12-018 establish that their participation was effective. However, as TURN and Aglet recognize by their voluntary reductions in the number of hours for which they request compensation, TURN's and Aglet's hours should not be fully compensated because some of their central contentions were rejected in D.01-12-018.

The Commission has directed intervenors seeking compensation to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. This exercise assists us in determining the reasonableness of the request and in avoiding unproductive participation. We recognized in D.98-04-059 (mimeo. at 34-35) that assigning a dollar value to intangible benefits may be difficult, but noted that benefits thought to be intangible may be “monetized” through appropriate proxies.

TURN claims, at a minimum, a partial contribution to the exclusion of \$7.1 million in customer-account management costs, elimination of the core’s \$13 million annual contribution toward noncore ITCS, and adoption of the noncore’s estimated \$3 million contribution to core ITCS. TURN also asserts that its substantial contribution concerning profound long-term structural changes to the gas market and regulatory system is sufficient, by itself, for the Commission to find that TURN’s participation was productive. Aglet argues similarly that, since even a small increment of ratepayer benefit could affect revenues by millions of dollars, the Commission can find that Aglet’s participation in this phase of the proceeding has been productive. We agree that the savings and benefits realized due to TURN’s and Aglet’s substantial contributions to D.01-12-018 compare favorably with their compensation requests.

In administering the compensation program, we have determined that an intervenor’s participation is necessary if it represents customer interests that would otherwise be underrepresented. (Cf. § 1801.3(f).) Aglet and TURN were the only active parties that represented only residential and small commercial customers. ORA represents the interests of all customers, not only residential and small commercial customers. Aglet and TURN cooperated with other parties in some ways, e.g., protesting advice letters 2895 and 1185-G jointly with ORA. However, the fact that ORA supported the Comprehensive

Settlement, while Aglet and TURN did not, highlights that their interests diverged in other respects. Due to the degree of cooperation between TURN and Aglet, we do not find unreasonable duplication in the presentation of their similar interests. We agree that TURN's and Aglet's efficient and cooperative participation was necessary because, otherwise, residential and small commercial customers would have been underrepresented.

Finally, in assessing whether a customer's participation was needed, we have said in D.98-04-059 (mimeo. at 33) that the Commission should not award compensation "where the customer has argued issues that are, e.g., irrelevant, outside the scope of the proceeding, or beyond the Commission's jurisdiction to resolve." We do not find that any portion of TURN's or Aglet's participation in this proceeding should be disallowed because of such shortcomings.

6.3. Hours Claimed

6.3.1. TURN

TURN requests compensation for 502.77 hours out of the 581.42 hours of professional attorney time it claims on this proceeding. TURN provided detailed logs of its attorneys' time. For a few attorney hours and direct expenses that were related to both the PG&E and SoCalGas settlements, TURN charged one-half of the costs to PG&E and the other half to SoCalGas.

While we have granted full compensation in some proceedings in which we did not accept all of the intervenor's recommendations, we find that full compensation in this instance would not ensure ratepayer benefit, since TURN did not prevail regarding its central tenets that intrastate transmission should not be unbundled and that systemwide balancing should be maintained. We find TURN's voluntary exclusion of all attorney hours spent after issuance of the proposed decision in November 2000 to be an appropriate

adjustment in recognition of its partial success. Additionally, we agree with TURN's exclusion of the time it spent on SoCalGas advice letters 2924 and 2925, since TURN has not established that this effort led to a substantial contribution to D.01-12-018.

Per our prior direction to TURN to report its hours by issue in this proceeding, TURN's attorneys used activity codes and line item descriptions to allocate their time, and TURN allocated the total attorney time to the major issues as follows:

Table 4
Allocation of TURN Attorney Time by Issue

<u>Issue</u>	<u>Percentage of Attorney Time</u>
Intrastate Transmission Capacity Unbundling	60%
Storage Capacity Unbundling for Core	5%
Separation of Core/Noncore Balancing	10%
Core Interstate Capacity Unbundling	15%
Other Retail Issues	10%

The hourly breakdowns and allocation of hours reasonably support the claimed hours for TURN. Because of the lengthy procedural history, including protracted negotiations leading to multiple contested settlements, we conclude that the hours for which TURN requests compensation are reasonable.

6.3.2. Aglet

Aglet requests compensation for 37.2 hours of the 63.0 professional hours spent on this proceeding. Aglet voluntarily reduces its compensation request by one half of the hours it spent defending the Post-Interim Settlement and opposing the Comprehensive Settlement.

Aglet has maintained detailed time records, separating Weil's time into professional hours and travel and compensation request hours. Certain travel time and related costs were allocated only partially to this proceeding due to coordination of Weil's efforts with other proceedings.

Aglet states that allocation of professional time by major issue is difficult in this instance, with most time spent defending the Post-Interim Settlement and opposing the Comprehensive Settlement. Aglet states that its usual practice of allocating time based on page counts in written work products is impractical because much time was spent editing testimony sponsored by other witnesses and in hearings and oral arguments. Therefore, Aglet allocates its professional time to three major categories based on time records, as follows:

Table 5
Allocation of Aglet Professional Time by Major Category

<u>Category</u>	<u>Prof. Hours</u>	<u>Disallowed Hours</u>	<u>Compensation Hours</u>
General work	3.6		3.6
Settlements	51.5	25.8	25.7
Implementation Costs	<u>7.9</u>	—	<u>7.9</u>
TOTAL	63.0	25.8	37.2

General work in the above table covers activities that cannot be allocated to substantive issues or activities, including initial review of early proposals from SoCalGas, discovery, and review of procedural rulings. It appears that the implementation costs category refers to SoCalGas' and SDG&E's advice letters 2895 and 1185-G proposing implementation cost recovery.

Aglet's hourly breakdowns and allocation of hours reasonably support the claimed hours. While we prefer a more rigorous method

rather than Aglet's approach, the vagueness in this instance is justifiable. Unlike TURN, Aglet did not participate in the negotiating sessions. We agree that it would be difficult to allocate to individual issues the time Aglet spent supporting one settlement and opposing another.

We conclude that the hours for which Aglet requests compensation are reasonable. We have found that Aglet's participation was beneficial in many respects. While we have granted full compensation in some proceedings in which we did not accept all of the intervenor's recommendations, we find that full compensation in this instance would not ensure ratepayer benefit, since Aglet did not prevail regarding its central positions that intrastate transmission should not be unbundled and that systemwide balancing should be continued. We find Aglet's voluntary disallowance of one half of the time that Weil spent supporting the Post-Interim Settlement and opposing the Comprehensive Settlement to be an appropriate adjustment in light of its partial success.

TURN and Aglet employed different approaches in reaching their voluntary hourly reductions. While TURN's approach yielded a smaller percentage reduction than did Aglet's approach, we conclude that the relative disallowances are reasonable in light of TURN's involvement in the lengthy negotiation process which focused the issues for evidentiary hearings.

6.4. Hourly Rates

Section 1806 requires the Commission to compensate eligible parties at a rate that reflects the "market rate paid to persons of comparable training and experience who offer similar services."

6.4.1. TURN

Since all of TURN's hours for 2001 and 2002 are disallowed, we need address only hourly rates for 1999 and 2000. The Commission

previously adopted the hourly rates for Hawiger for 1999 and 2000 that TURN requested in its compensation request,⁹ and we find that they are reasonable for use in this award. After TURN filed its compensation request in this proceeding, the Commission established an hourly rate for Florio of \$315 for 2000, moving from a fiscal year basis to a calendar year basis for Florio.¹⁰ This updated hourly rate is reasonable for Florio's hours spent throughout 2000 in this proceeding, instead of the \$310 TURN requested for the first half of 2000 and the \$350 TURN requested for the second half of 2000. Florio's participation in this proceeding during 1999 occurred in the last half of 1999, so the hourly rate of \$310 approved previously for Florio for fiscal year 1999/2000¹¹ is appropriate for his 1999 work here, consistent with TURN's request.

6.4.2. Aglet

Aglet's compensation request is based on hourly rates for Weil that were approved in the two prior compensation awards in this proceeding, including \$200 for professional work and \$100 for travel time during 1999, and \$220 for professional work and \$110 for travel time during 2000.¹² Aglet requests an hourly rate of \$220 for professional work in 2001 and also an hourly rate of \$110 for travel time in 2001 and for preparation of its compensation request in 2002. It does not waive its right to seek compensation at higher hourly rates for work during 2002 in other proceedings. The Commission has adopted

⁹ The Commission has adopted hourly rates for Hawiger of \$170 for 1999 (D.00-04-007, mimeo. at 20-21; D.01-03-042, mimeo. at 5, 7) and \$185 for 2000 (D.01-03-042, mimeo. at 7).

¹⁰ D.02-06-070, mimeo. at 21-22.

¹¹ D.00-10-020, mimeo. at 17; D.01-03-030, mimeo. at 14.

¹² D.00-07-046, mimeo. at 9; D.01-03-030, mimeo. at 13.

the requested 2001 hourly rates previously for Weil.¹³ We find that the hourly rates requested by Aglet for 1999, 2000, and 2001, which were previously approved for Weil, continue to be appropriate. A \$110 rate for preparation of the compensation request in 2002 is also reasonable, consistent with the rate awarded in D.02-08-032.

6.5. Other Costs

The costs that TURN and Aglet claim for items such as postage, photocopying, telephone calls, and travel, although not allocated or reduced, are a reasonable percentage of their requests and are reasonable in light of the large number of participants and the duration and substance of this proceeding. We grant TURN's request of \$9,215.83 and Aglet's request of \$520.85 in expenses.

7. Award

7.1. TURN

Consistent with our findings regarding hours, hourly rates, and expenses, we award TURN \$118,466.48, as follows:

Table 6
TURN Compensation Award

	<u>Billing Period</u>	<u>Hourly Rate</u>	<u>Hours</u>	<u>Total</u>
Hawiger:				
	2000	\$185.00	327.4	\$60,569.00
	1999	\$170.00	44.37	\$7,542.90
Florio:				
	2000	\$315.00	105.75	\$33,311.25
	1999	\$310.00	25.25	\$7,827.50

¹³ D.01-11-023, mimeo. at 7; D.01-11-047, mimeo. at 13.

Expenses		\$9,215.83
TOTAL	502.77	\$118,466.48

This award slightly exceeds TURN's request of \$118,267.73, due to our adoption of calendar year rather than fiscal year hourly rates for Florio. The total compensation awards to TURN in this proceeding, including the \$17,494.17 TURN requested and received for its contributions to the orders adopting the two PG&E settlements, exceed TURN's initial estimate of \$97,375 in its NOI. We agree with TURN that the higher amounts are justified in light of the protracted, complicated, and contentious proceedings.

7.2. Aglet

Since we have found Aglet's requested hours, hourly rates, and expenses to be reasonable, we award Aglet its requested compensation of \$11,514.85, as calculated in Table 3.

The total compensation awards to Aglet, including the \$21,852.28 it requested and received for its contributions to the orders adopting the two PG&E settlements, exceed the initial estimate of \$23,980 in Aglet's NOI. We agree with Aglet that the higher amounts are justified.

7.3. Utility Responsibility for the Awards

SoCalGas and SDG&E should pay the awards of compensation. We assess responsibility for payment between SoCalGas and SDG&E based on their 2001 jurisdictional gas revenues. Consistent with previous Commission decisions, we will order that interest be paid on the award amounts (calculated at the three-month commercial paper rate), commencing May 1, 2002 for TURN and April 29, 2002 for Aglet (the 75th day after each intervenor filed its compensation request) and continuing until the utility makes its full payment of award.

As in all intervenor compensation decisions, we put TURN and Aglet on notice that the Commission Staff may audit their records related to this award. Thus, TURN and Aglet must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Their records should identify specific issues for which compensation is requested, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation may be claimed.

8. Waiver of Comment Period

This is a compensation matter per §§ 1801-1812. Accordingly, pursuant to Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is being waived.

9. Assignment of Proceeding

Carl Wood is the Assigned Commissioner and John Wong is the assigned ALJ in this proceeding.

Findings of Fact

1. TURN has made a timely request for compensation for its contribution to D.01-12-018. TURN has shown significant financial hardship.
2. Aglet has made a timely request for compensation for its contribution to D.01-12-018. Aglet has shown significant financial hardship.
3. TURN contributed substantially to D.01-12-018.
4. Aglet contributed substantially to D.01-12-018.
5. TURN has maintained a detailed summary of time spent by its attorneys in this proceeding.

6. TURN's proposed approach, in which all its attorney hours spent after issuance of the proposed decision are excluded, is reasonable in recognition of its partial success in this proceeding.

7. In substantial compliance with Commission direction, TURN billed travel time at one half the usual rate by halving the hours charged.

8. TURN did not establish that its effort with respect to SoCalGas advice letters 2924 and 2925 substantially contributed to D.01-12-018.

9. Aglet has maintained a detailed summary of professional time spent in this proceeding.

10. Aglet's proposed approach in which its hours are reduced by one half of the time spent defending the Post-Interim Settlement and opposing the Comprehensive Settlement is reasonable in light of its partial success in this proceeding.

11. For work performed by TURN, hourly rates for Hawiger of \$170 for 1999, which has already been approved by the Commission in D.00-04-007, and \$185 for 2000, which has been approved already by the Commission in D.01-03-042, are reasonable.

12. For work performed by TURN, hourly rates for Florio of \$315 for 2000, which has been approved already by the Commission in D.02-06-070, and \$310 for his work in the last half of 1999, which has been approved already for fiscal year 1999/2000 by the Commission in D.00-10-020, are reasonable.

13. For work performed by Aglet, hourly rates for Weil of \$200 for professional work and \$100 for travel time during 1999, and \$220 for professional work and \$110 for travel time during 2000, all of which have been approved already in D.00-07-046 and D.01-03-030, are reasonable. Hourly rates for Weil of \$220 for professional work and \$110 for travel time during 2001, which have been approved already in D.01-11-023 and D.01-11-047, are reasonable.

14. For preparation of Aglet's compensation request in 2002, an hourly rate of \$110 for Weil is reasonable.

15. TURN's participation was productive in that the costs it claims for its participation were less than the benefits realized.

16. Aglet's participation was productive in that the costs it claims for its participation were less than the benefits realized.

17. The miscellaneous costs incurred by TURN are reasonable.

18. The miscellaneous costs incurred by Aglet are reasonable.

Conclusions of Law

1. TURN has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation.

2. Aglet has fulfilled the requirements of §§ 1801-1812.

3. For TURN, all attorney hours spent after issuance of the proposed decision should be disallowed.

4. TURN's time spent on SoCalGas advice letters 2924 and 2925 should be disallowed.

5. For Aglet, one half of its time spent defending the Post-Interim Settlement and opposing the Comprehensive Settlement should be disallowed.

6. TURN should be awarded \$118,466.48 for its contribution to D.01-12-018.

7. Aglet should be awarded \$11,514.85 for its contribution to D.01-12-018.

8. Per Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, the public review and comment period for this compensation decision may be waived.

9. This order should be effective today so that TURN and Aglet may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network (TURN) is awarded \$118,466.48 for its substantial contribution to Decision (D.) 01-12-018.
2. Aglet Consumer Alliance (Aglet) is awarded \$11,514.85 for its substantial contribution to D.01-12-018.
3. Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) shall pay TURN \$118,466.48 in proportion to their respective 2001 jurisdictional natural gas revenues within 30 days of the effective date of this order. SoCalGas and SDG&E shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release H.15, beginning on May 1, 2002 and continuing until full payment is made.
4. SoCalGas and SDG&E shall pay Aglet \$11,514.85 in proportion to their respective 2001 jurisdictional natural gas revenues within 30 days of the effective date of this order. SoCalGas and SDG&E shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release H.15, beginning on April 29, 2002 and continuing until full payment is made.
5. The public review and comment period for today's decision is waived.
6. Investigation 99-07-003 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

Compensation Decision Summary Information

Compensation Decision(s):	
Contribution Decision(s):	D0112018
Proceeding(s):	I9907003
Author:	ALJ Wong
Payer(s):	Southern California Gas Company, San Diego Gas & Electric Company

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Reason Change/Disallowance
The Utility Reform Network	2/15/02	\$118,267.73	\$118,466.48	failure to justify hourly rates
Aglet Consumer Alliance	2/13/02	\$ 11,514.85	\$11,514.85	

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marcel	Hawiger	Attorney	The Utility Reform Network	\$170	1999	\$170
Marcel	Hawiger	Attorney	The Utility Reform Network	\$185	2000	\$185
Michel	Florio	Attorney	The Utility Reform Network	\$310	1999	\$310
Michel	Florio	Attorney	The Utility Reform Network	\$310	2000	\$315
Michel	Florio	Attorney	The Utility Reform Network	\$350	2000	\$315
James	Weil	Policy Expert	Aglet Consumer Alliance	\$200	1999	\$200
James	Weil	Policy Expert	Aglet Consumer Alliance	\$220	2000	\$220
James	Weil	Policy Expert	Aglet Consumer Alliance	\$220	2001	\$220
James	Weil	Policy Expert	Aglet Consumer Alliance	\$220	2002	\$220